

Message Text

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EYES ONLY FOR ENDERS FROM GLITMAN AND BOEKER

E.O. 11652:GDS

TAGS:ETRD

SUBJECT:SUBSIDY CODE PROPOSAL

, WE WON ALL OF OUR POINTS AT YESTERDAY'S TRADE POLICY REVIEW GROUP MEETING ON THE SUBSIDY CODE, INCLUDING SPECIAL AND DIFFERENTIAL TREATMENT, EXCEPT FOR THE BIG ONE. WE WERE AGAIN ISOLATED IN ARGUING FOR SIGNIFICANTLY LIMITING THE "PROHIBITED" CATEGORY OF SUBSIDIES AGAINST WHICH COUNTERVAILING DUTIES COULD BE LEVIED WITHOUT RE-QUIRING AN INJURY FINDING.

2. ON THE PLUS SIDE, WE DID OBTAIN:

-- A CHAPEAU STATEMENT MAKING CLEAR OUR PROPOSAL IS NEGOTIABLE AND NOT A TAKE-IT-OR-LEAVE-IT PROPOSITION;

-- SEVERAL SENTENCES INDICATING WE ARE PREPARED TO DEAL WITH COUNTERVAILING DUTIES AS WELL AS
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SUBSIDIES;

-- A STATEMENT THAT DE MINIMUS SUBSIDIES WOULD NOT BE COUNTERVAILED AGAINST, AND

-- A STATEMENT THAT A DECISION NOT TO APPLY COUNTERVAILING DUTIES IN THE CASE OF PROHIBITED SUBSIDIES WOULD BE PERMITTED, AND NOT OBLIGATORY. THIS MEANS THAT OTHER COUNTRIES COULD CONTINUE TO FOLLOW EXISTING INJURY CONCEPTS FOR TRADE AMONG THEMSELVES.

IN ADDITION, THE OTHER AGENCIES ACKNOWLEDGED THAT THE PROPOSAL WE PLAN TO TABLE COULD IN FACT BE MODIFIED DURING THE COURSE OF THE NEGOTIATIONS IN A MANNER FURTHER LIMITING THE SCOPE OF THE NO INJURY PROHIBITED CATEGORY. IT WAS AGREED THAT LANGUAGE TO THIS EFFECT WOULD BE PLACED IN A POSITION PAPER WHICH WE WILL BE SENDING OUT TO ACCOMPANY THE PROPOSAL. WE WILL DEVELOP THIS LANGUAGE EARLY NEXT WEEK.

3. ON BALANCE, THEREFORE, THE PROPOSAL WE ARE TABLING CAN BE VIEWED AS A STEP TOWARDS INCREASING THE SCOPE OF THE INJURY PROVISION IN THE U.S. COUNTERVAILING DUTY LAW IN RETURN FOR OTHER COUNTRIES AGREEING TO PROHIBIT THE MORE EGREGIOUS TYPES OF SUBSIDIES. MOREOVER, OUR PROPOSAL WILL CONTAIN PROVISIONS FOR SUPPLEMENTAL CODES AND RULES TO COVER "COMPLEX SUBSIDY PRACTICES, PARTICULARLY THOSE THAT ARE IN WIDESPREAD USE OR THAT ARE CLOSELY LINKED TO NATIONAL SOCIO-ECONOMIC GOALS". THIS SHOULD PROVIDE SCOPE FOR BROADENING OUR USE OF THE INJURY PROVISION.

4. IN SUM, WHILE THERE WILL BE SERIOUS RESERVATIONS EXPRESSED BY OTHERS IN GENEVA, OUR PROPOSAL HAS BEEN SUFFICIENTLY MODIFIED TO EXCLUDE THE POSSIBILITY OF OTHERS REFUSING EVEN TO SIT DOWN AND DISCUSS A SUBSIDIES COUNTERVAIL CODE WITH US.

5. IN ANY EVENT, WE ARE UP AGAINST A TIME BIND. YEUTTER
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AND MACDONALD MADE CLEAR THEY WERE IN NO PARTICULAR RUSH TO MOVE IN THE SUBSIDY AREA. INDEED MACDONALD MAY PERSONALLY PREFER TO MAINTAIN THE STATUS QUO. UNDER THESE CIRCUMSTANCES AND GIVEN THE FACT THAT WE HAVE A LONG NEGOTIATION AHEAD OF US WITH MANY OPPORTUNITIES TO IMPROVE OUR PROPOSAL, WE RECOMMEND WE AGREE TO ITS TABLING ON TUESDAY.

6. PLEASE ADVISE. KISSINGER

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